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DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

EXAMINER

RADA, ALEX P

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/703,171

Applicant(s)

SAFAEI ET AL.

Examiner

Alex P. Rada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-30 and 92-126 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-30 and 92-126 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

In response to the amendment filed March 27, 2006 in which the applicant amends claims 26, 117 and 122, canceled claims 7 and 31-91, and claims 1-6, 8-30, and 92-126 are pending in this application.

Allowable Subject Matter

1. The indicated allowability of claims 8, 98-99 and 126 are withdrawn in view of the newly discovered reference(s) to Miyamoto et al. (US 6,325,721) and Mindes et al. (US 5,842,921).

Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 26-27, 29-30, 117-118, 120-121, and 124-125 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marshall et al. (US 2005/0208995) in view Thomas et al. (US 2001/0034268).

4. Marshall et al discloses the following:

Prompting the user to select a date within a predefined time period

(figure 93), transmitting a track board through the computer network to a

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user terminal, wherein the track board is displayed to the user by the user terminal (figures 1-3), the track board including a listing of tracks and a listing of *a plurality of races at each* of the tracks for the date selected by the user, in which the examiner interprets the user selecting one of the tracks (figure 94) for the selected tracks to view the available races that day to be an equivalent to a listing of *a plurality of races at each* of the tracks for the date selected by the user (figures 93-99), prompting the user to select a race from a track in the listing *from the track board*, in which the examiner interprets the user selecting a track from in figure 94 and then selecting the a race from that track to be an equivalent to prompting the user to select a race from a track in the listing *from the track board* (figure 93-94), displaying results data from a race selected by the user to the user with the user terminal if the status for the selected race is completed (figure 95), (figures 91-99) as recited in claims 26 and 117.

Updating the statuses of the races on the track board at predetermined time intervals, in which the examiner interprets the refresh when a user is going through the menus to be an equivalent to updating the track board at predetermined intervals (paragraph 83) as recited in claims 27 and 118.

Transmitting live odds to the user terminal through the computer network if the status of the selected race is open for wagering with live odds available, wherein the live odds are displayed to the user terminal, and

updating the live odds at predetermined time intervals (figures 1-3) as recited in claims 30 and 121.

The race entry data having a listing of original entries for the race selected by the user, the selected race being at a future day, in which the examiner interprets the races within the same day to be an equivalent to a future day and the program data having a listing of current entries for the race selected by the user the selected race being for a currently scheduled race for a current day (figures 91-99) as recited in claims 124 and 125.

Marshall et al does not expressly disclose the following:

Distinguishing the races from each other to the user *in the track board* by status as completed, open for wagering, and displaying race program data for a race selected by the user to the user with the user terminal if the status of the selected race is open for wagering as recited in claims 26 and 117.

Thomas et al teaches the following:

Distinguishing the races from each other to the user *in the track board* by status as completed and open for wagering, in which the examiner interprets the status indicator of open and completed in figures 4A-4B to be an equivalent to distinguishing the races from each other to the user *in the track board* by status as completed and open for wagering (figures 4A-4B), and displaying race program data for a race selected by the user to the user with the user terminal if the status of the selected race is open for wagering (figures 4A-4B) as recited in claims 26 and 117.

At the time of the invention was made it would have been obvious design choice to a person of ordinary skill in the art to provide different types of status conditions as recited in claims 26, 29, 117, and 120 to inform game players the condition of a particular event or actions taking place, because Applicant has not disclosed that the particular status conditions provides an advantage or solves a stated problem.

By having a status for each race, one of ordinary skill in the art would provide game players an accurate condition of a desired race time and standing.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Marshall et al to include distinguishing the races from each other to the user by status as completed, open for wagering, and displaying race program data for a race selected by the user to the user with the user terminal if the status of the selected race is open for wagering as taught by Thomas et al to provide game players an accurate condition of a desired race time and standing.

5. Claims 1-6, 9-25, 28, 92-97, 100-117, and 122-123 rejected under 35 U.S.C. 103(a) as being unpatentable over Marshall et al. (US 2005/0208995) in view Thomas et al. (US 2001/0034268) as applied to claims 26 and 117 above, and further in view of Brenner et al. (6,089,981) and Boylan, III et al (US 6,712,701).

6. Marshall et al in view of Thomas et al further disclose the following:

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A user capable of indicating an event by which to wager on using a suitable type of interface through a private wagering network or through a public network such (figures 1-3) as the Internet 1, 9, 92, and 100.

Marshall et al in view of Thomas et al disclose the claimed invention as discussed above except for the following:

Transmitting race entry data through a computer network to the user terminal, wherein the race entry data are displayed to the user by the user terminal, the race entry data including a listing of a plurality of tracks a listing of scheduled races at each of the tracks at a future day, and a listing of original entries in each of the races, transmitting race program data through the computer network to the user terminal, wherein the race program data are displayed to the user by the user terminal, the race program data including a listing of a plurality of tracks, a listing of currently scheduled races at each of the tracks for a current day, and a listing of current entries in each of the races, transmitting live odds through the computer network to the user terminal for races included within the race program data which are open for wagering and for which live odds are available, wherein the live odds are displayed to the user by the user terminal, and updating through the computer network the live odds transmitted to the user terminal at predetermined time intervals, wherein the update live, odds are displayed to the user by the user terminal as recited in claims 1, 29 and 92

The race program data having program number and postposition for each current entry in each race as recited in claims 2 and 93.

The race entry data further having morning line odds as recited in claims 3 and 94.

The entry data further having an original jockey and trainer for each entry and current entry as recited in claims 4 and 95.

A means for providing a list of at least one past performance, at least one handicapping, or at least one tip selection or combination to a user on a user terminal as recited in claims 5 and 96.

A means for charging a credit card of the user, a wagering account of the user, or a promotional account of the user as recited in claim 6 and 97.

A means for providing results data for currently scheduled races to a user terminal through the network after currently scheduled races have been made official and the results include finish order of entries from races and payoff for the entries on the user terminal as recited in claims 9 and 100.

A means for providing a listing of a plurality of tracks and weather conditions for the tracks displayed on the user terminals as recited in claims 10-12 and 101-103.

A means for providing race contest new articles to the user on a user terminal as recited in claims 13 and 104.

A user to view contents news articles selected by a user and displayed on a user terminal as recited in claims 14 and 105.

A means for prompting a user for displaying post time for currently scheduled races and means for causing post times for currently scheduled

racers to be expressed in a time zone displayed on user terminal as recited in claim 15 and 106.

Prompting the user to select a country before transmitting the race entry data and the race program data the transmitted race entry data and the transmitted race program data identifying races from a country selected by the user as recited in claim 16 and 107.

A means for providing a board having entries including a horse, jockey, or trainer, and a means for providing selected result identifying races including a horse, jockey, or a trainer entries as recited in claims 17 and 108.

A means for causing the search result to be organized by a plurality of headings as recited in claims 18 and 109.

A means for prompting the user to select a horse, a jockey, or a trainer for providing statistical data for horse, jockey, or trainer selected by user on a user terminal as recited in claims 19 and 110.

A means for providing a race board on a user terminal having a listing of a plurality of races scheduled for a predetermined period of time and prompting a user at least one race characteristic (post-time) on a user terminal as recited in claims 20 and 111.

Race characteristic includes a plurality of headings as recited in claims 21, 24, 112, and 115.

A means for prompting user to organize search result according to a race characteristics and a means for causing the search results to be organized

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by a race characteristics select by the user on a user terminal as recited in claims 22 and 113.

A means for providing a race board on a user terminal having a listing of a plurality of races scheduled for a predetermined period of time, prompting the user to organized the listing by at least one race characteristic and the a means for causing the listing to be organized by race characteristics selected by the user on a user terminal as recited in claims 23 and 114.

A means for prompting the user to search the listing for race having at least one race characteristic and a means for causing the listing to be searchable for races having a race characteristic selected by the user on a user terminal as recited in claims 25 and 116.

The statuses re distinguished by color as recited in claims 28 and 119.

The computer network includes the Internet as recited in claims 122 and 123.

Brenner teaches the following:

A means for providing race entry data through a network to a user terminal having a listing of tracks, scheduled races, a means for providing race program data through the network to a user terminal (column 3, lines 32-40), a means for providing live odds through a network, and a means for updating (summary and figures 1 and 8-22) as recited in claims 1, 29 and 92.

The race program data having program number (not shown) and postposition for each current entry in each race (summary) as recited in claims 2 and 93.

The race entry data further having morning line odds (column 18, line 51-61) as recited in claims 3 and 94.

The entry data further having an original jockey and trainer for each entry and current entry (column 14, line 61 – column 15, line 3) as recited in claims 4 and 95.

A means for providing a list of at least one past performance, at least one handicapping, or at least one tip selection or combination to a user on a user terminal (summary) as recited in claims 5 and 96.

A means for charging a credit card of the user, a wagering account of the user, or a promotional account of the user (column 20, line 20-34) as recited in claim 6 and 97.

A means for providing results data for currently scheduled races to a user terminal through the network after currently scheduled races have been made official and the results include finish order of entries from races and payoff for the entries on the user terminal (summary) as recited in claims 9 and 100.

A means for providing a listing of a plurality of tracks and weather conditions for the tracks displayed on the user terminals (column 6, line 51 – 58) as recited in claims 10-12 and 101-103.

A means for providing race contest new articles to the user on a user terminal (column 9, lines 11-31) as recited in claims 13 and 104.

A user to view contents news articles selected by a user and displayed on a user terminal (column 9, lines 11-31) as recited in claims 14 and 105.

A means for prompting a user for displaying post time for currently scheduled races and means for causing post times for currently scheduled races to be expressed in a time zone displayed on user terminal (figure 35 and column 22, line 47 – column 23, line 5) as recited in claim 15 and 106.

Prompting the user to select a country before transmitting the race entry data and the race program data the transmitted race entry data and the transmitted race program data identifying races from a country selected by the user, in which the examiner interprets the selection of different parts of the country region to be an equivalent to a prompting the user to select a country (figure 35 and column 22, line 47 – column 23, line 5) as recited in claim 16 and 107.

The statuses re distinguished by color (column 9, lines 41-53) as recited in claims 28 and 119.

By having an interactive type wagering service on a computer network, one of ordinary skill in the art would allow users to access racing information or to place wagers on an upcoming race.

Marshall et al in view of Thomas et al and Brenner do not expressly disclose the following:

A means for providing race data through a computer network to a user terminal and a listing of tracks at a future day and a listing of original entries in each of the races as recited in claims 1, 9, 92, and 100.

A means for providing a board having entries including a horse, jockey, or trainer, and a means for providing selected result identifying races including a horse, jockey, or a trainer entries as recited in claims 17 and 108.

A means for causing the search result to be organized by a plurality of headings as recited in claims 18 and 109.

A means for prompting the user to select a horse, a jockey, or a trainer for providing statistical data for horse, jockey, or trainer selected by user on a user terminal as recited in claims 19 and 110.

A means for providing a race board on a user terminal having a listing of a plurality of races scheduled for a predetermined period of time and prompting a user at least one race characteristic (post-time) on a user terminal as recited in claims 20 and 111.

Race characteristic includes a plurality of headings as recited in claims 21, 24, 112, and 115.

A means for prompting user to organize search result according to a race characteristics and a means for causing the search results to be organized by a race characteristics select by the user on a user terminal as recited in claims 22 and 113.

A means for providing a race board on a user terminal having a listing of a plurality of races scheduled for a predetermined period of time, prompting the user to organized the listing by at least one race characteristic and the a means for causing the listing to be organized by race characteristics selected by the user on a user terminal as recited in claims 23 and 114.

A means for prompting the user to search the listing for race having at least one race characteristic and a means for causing the listing to be

searchable for races having a race characteristic selected by the user on a user terminal as recited in claims 25 and 116.

The computer network includes the Internet as recited in claims 122 and 123.

Boylan, III et al teaches the following:

An interactive wagering service capable of having a means for providing race type data through a computer network to a user displayed to the user by a user terminal (column 3, lines 10-24 and column 4, line 64 – column 5, line 5 and figure 1).

An interactive wagering system capable of providing users content that is interactive, which the user may select displayed items to obtain additional information or to create a wager based on the selected information, in which the examiner interprets Boylan's interactive wagering system to be an equivalent to the search board as recited in claims 17-25 and 108-116.

The computer network includes the Internet (figures 1 and 4) as recited in claims 122-123.

By having an interactive type wagering service on a computer network, one of ordinary skill in the art would allow users to access racing information or to place wagers on an upcoming race.

Garahi in view of Brenner and Boylan do not expressly disclose a listing of tracks, a list for scheduled races at each of the tracks and a listing of original entries for a future event, however, it is notoriously well known in

sport wagering bookings to have a listing of events, odds, point spread, and other stats for wagering on future event like boxing or the super bowl.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Marshal et al to further include a means for providing race data through a computer network to a user terminal, a search board means, and a listing of tracks at a future day and a listing of original entries in each of the races as taught by Brenner and Boylan allow users to access racing information or to place wagers on an upcoming race.

7. Claims 8, 98-99 and 126 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marshall et al. (US 2005/0208995) in view Thomas et al. (US 2001/0034268), Miyamoto et al. (US 6,325,721) and Mindes et al. (US 5,842,921).

8. Marshall et al discloses the following:

Prompting the user to select a date within a predefined time period (figure 93), transmitting a track board through the computer network to a user terminal, wherein the track board is displayed to the user by the user terminal (figures 1-3), the track board including a listing of tracks and a listing of races at the tracks for the date selected by the user, in which the examiner interprets the user selecting one of the tracks (figure 94) for the selected tracks to view the available races that day to be an equivalent to a listing of races at the tracks for the date selected by the user (figures 93-99), prompting the user to select a race from a track in the listing, in which the examiner interprets the user selecting a track from in figure 94 and then selecting the a

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race from that track to be an equivalent to prompting the user to select a race from a track in the listing (figure 93-94), displaying results data from a race selected by the user to the user with the user terminal if the status for the selected race is completed (figure 95), (figures 91-99) as recited in claim 126.

Transmitting the results data through the computer network to the user terminal, the results data includes a listing of a plurality of race tracks, a listing of completed races at the tracks and the finish order of entries in the races and payoffs for the entries, in which the examiner interprets the results tab in figure 95 to be an equivalent to transmitting the results data through the computer network to the user terminal, the results data includes a listing of a plurality of race tracks, a listing of completed races at the tracks and the finish order of entries in the races and payoffs for the entries (paragraphs 0127-0129 and figures 91-99) as recited in claims 8 and 99.

Marshall et al does not expressly disclose the following:

Distinguishing the races from each other to the user by status as completed, open for wagering, displaying race program data for a race selected by the user to the user with the user terminal if the status of the selected race is open for wagering, and providing a list of a races that have not yet been run through the computer network to the user terminal, wherein the list is displayed to the user by the user terminal, prompting the user to place a mock wager on at least one of the listed races, comparing a selected mock wager with results of the races, and awarding a prize to the user based on the comparison as recited in claims 98 and 126.

Thomas et al teaches the following:

Distinguishing the races from each other to the user by status as completed and open for wagering, in which the examiner interprets the status indicator of open and completed in figures 4A-4B to be an equivalent to distinguishing the races from each other to the user by status as completed and open for wagering (figures 4A-4B), and displaying race program data for a race selected by the user to the user with the user terminal if the status of the selected race is open for wagering (figures 4A-4B) as recited in claim 126.

At the time of the invention was made it would have been obvious design choice to a person of ordinary skill in the art to provide different types of status conditions as recited in claim 126 to inform game players the condition of a particular event or actions taking place, because Applicant has not disclosed that the particular status conditions provides an advantage or solves a stated problem.

By having a status for each race, one of ordinary skill in the art would provide game players an accurate condition of a desired race time and standing.

Miyamoto et al teaches the following:

Providing a list of a races that have not yet been run through the computer network to the user terminal, wherein the list is displayed to the user by the user terminal, in which the examiner interprets the forecasting ranking of racing contests for simulating the racing event and contestants by incorporating past and current data to forecasting the ranking of racing

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contests to be an equivalent to providing a list of a races that have not yet been run through the computer network to the user terminal, wherein the list is displayed to the user by the user terminal (summary) as recited in claims 98 and 126.

Mindes teaches the following:

Prompting the user to place a mock wager on at least one of the listed races, comparing a selected mock wager with results of the races, and awarding a prize to the user based on the comparison, in which the examiner interprets the simulating of betting and allowing users to participate in the simulation betting or wagering events without winning or losing actual dollars but would be winning or losing imaginary dollars or "points" to be an equivalent to the user place a mock wager on at least one of the listed races, comparing a selected mock wager with results of the races, and awarding a prize to the user based on the comparison (col. 25, lines 47-64 and summary) as recited in claim 98 and 126.

By providing mock wagering game, one of ordinary skill in the art would provide the capability of forecasting places of racing contests while wagering on the outcome without winning or losing actual dollars but winning or losing imaginary dollars or points.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Marshal to include distinguishing the races from each other to the user by status as completed, open for wagering, displaying race program data for a race selected by the

user to the user with the user terminal if the status of the selected race is open for wagering, and providing a list of a races that have not yet been run through the computer network to the user terminal, wherein the list is displayed to the user by the user terminal, prompting the user to place a mock wager on at least one of the listed races, comparing a selected mock wager with results of the races, and awarding a prize to the user based on the comparison as taught by Thomas et al, Miyamoto et al and Mindes et al to provide game players an accurate condition of a desired race time and standing and the capability of forecasting places of racing contests while wagering on the outcome without winning or losing actual dollars but winning or losing imaginary dollars or points.

Response to Arguments

9. Applicant's arguments filed March 27, 2006 have been fully considered but they are not persuasive.
10. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to combine is found on figure 4B. As noted above Marshall lacks the different status indicators on the track board. Thomas teaches as the user selects a track (4A), the user can immediately see that

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several different tracks are open and within the selected tracks are the number of races that a user can choose from for wagering. The underlying game of the claimed invention and the cited prior are the same. The underlying game of the claimed invention discloses prompting a user to select a given date upon which to place wagers, displaying a listing of tracks and a list of races, selecting a particular race from the track selected, and prompting a user to place a wager for a particular race selected. The cited art discloses an interactive wagering system where users select a particular date on a racing schedule, select a particular track and within that track select a particular race, and prompting the user to place a wager for a particular race. The only difference between the claimed invention and the cited prior art are the aesthetic design of the different types of status indicator to inform the user that a race is open, closed, completed and variations thereof and single screen that displays a plurality of information versus clicking on particular menu tabs to achieve the same wager selection. Giving a claim it's broadest reasonable interpretation, the cited prior disclose the claimed invention as discussed above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 571-272-4452. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on 571-272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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JOHN M. HOTALING, II
PRIMARY EXAMINER